Chapter 81: DESIGNATION OF PRIORITY TOXIC CHEMICALS

SUMMARY: This rule designates substances as priority toxic chemicals pursuant to Maine's Priority Toxic Chemical Use Reduction laws that, as a result of use, subject certain facilities to reporting and pollution prevention planning requirements.

- 1. Applicability. Beginning July 1, 2013, a commercial and industrial facility that, during any calendar year, uses in excess of 1,000 pounds of any of the chemicals designated as a priority toxic chemical under section 3 of this rule must file a report as required under Maine's *Priority Toxic Chemical Use Reduction laws* (T.U.R. Law), 38 M.R.S. §2324, and all rules adopted pursuant to the T.U.R. Law Section 2329.
- **2. Definitions.** For the purposes of understanding the provisions in this rule, the definitions in this section must be used.
 - **A. Alternative.** "Alternative" means a substitute process, product, material, chemical, strategy or a combination of these that serves a purpose functionally equivalent to that of a priority toxic chemical used by a commercial and industrial facility.
 - **B. Formaldehyde.** "Formaldehyde" means a chemical compound having a chemical formula of CH₂O and a CAS RN (Chemical Abstract Service Registry Number) of 50-00-0.
 - **C. Hexavalent Chromium.** "Hexavalent Chromium" means a chemical having a chemical formula of Cr⁶⁺ and a CAS RN (Chemical Abstract Service Registry Number) of 18540-29-9.
 - **D.** Cadmium. "Cadmium" means a chemical having a chemical formula of Cd and a CAS RN (Chemical Abstract Service Registry Number) of 7440-43-9.
 - E. Commercial and industrial facility. "Commercial and industrial facility" means an entity:
 - (1) With an economic sector or industry code under the North American Industry Classification System of the United States Department of Commerce, United States Census Bureau; and,
 - (2) Located in the State of Maine.
 - F. M.R.S. "M.R.S." means the Maine Revised Statutes.
 - **G. Perchloroethylene.** "Perchloroethylene" or "perc" means a chemical compound having a CA (Chemical Abstract) Index Name of "Ethene, tetrachloro-", a chemical formula of C₂Cl₄ and a CAS RN (Chemical Abstract Service Registry Number) of 127-18-4.
 - **H. Priority toxic chemical.** "Priority toxic chemical" means a toxic chemical that has been identified by the department pursuant to Section 3 of this rule.
 - **I. Reasonably available.** "Reasonably available" means practicable based on cost, efficacy, availability and other factors as determined by the department.
 - **J. Safer alternative.** "Safer alternative" means an alternative that, when compared to a priority chemical that it could replace, would reduce the potential for harm to human health or the

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environment or that has not been shown to pose the same or greater potential for harm to human health or the environment as that priority chemical.

- **K. Styrene.** "Styrene" means a chemical compound having a CA (Chemical Abstract) Index Name of "Benzene, ethenyl-", a chemical formula of C₈H₈, and a CAS RN (Chemical Abstract Service Registry Number) of 100-42-5.
- **L. Toxic chemical.** "Toxic chemical" means a chemical that has been identified as a chemical of high concern on a list published by the department under Maine's *Toxic Chemicals in Children's Products* law (T.C.C.P. Law), 38 M.R.S. §1693.
- **M. Trichloroethylene.** "Trichloroethylene" or "TCE" means a chemical compound having a CA (Chemical Abstract) Index Name of "Ethene, trichloro-", a chemical formula of C₂HCl₃, and a CAS RN (Chemical Abstract Service Registry Number) of 79-01-6.
- **N. Use.** "Use" means to manufacture, process, or otherwise use a priority toxic chemical or to use a product or material that contains a priority toxic chemical if so designated by the department.

3. Designation of Priority Toxic Chemicals

- **A. Initial list.** As directed in the T.U.R. Law, §2323, the department hereby establishes a list of priority toxic chemicals to include the following:
 - (1) Cadmium;
 - (2) Formaldehyde;
 - (3) Hexavalent chromium;
 - (4) Perchloroethylene;
 - (5) Styrene; and,
 - (6) Trichloroethylene.
- **B.** Criteria for listing. Under the T.U.R. Law, §2323(1)(A), a chemical may be included on the list only if it has been identified on the basis on credible scientific evidence by an authoritative state or federal governmental agency, or on the basis of other scientific evidence considered authoritative by the department, as being known as or reasonably anticipated to be:
 - (1) A carcinogen, a reproductive or developmental toxicant or an endocrine disruptor;
 - (2) Persistent, bioaccumulative and toxic; or
 - (3) Very persistent and very bioaccumulative.

These criteria are identical to the criteria for designation of chemicals of high concern under the T.C.C.P. Law, 38 M.R.S. §1693. Each of the chemicals listed under subsection 3(A) of this rule appears on the list of chemicals of high concern published by the department under the T.C.C.P. Law.

NOTE: To view the full list of chemicals of high concern, go to www.maine.gov/dep/oc/safechem/index.htm

- **C. Other factors considered.** Under the T.U.R. Law, §2323, the department may consider the following factors, in addition to the criteria of subsection 3(B) of this rule, in determining whether to include a chemical on the list of priority toxic chemicals:
 - (1) There is a risk of worker exposure to these chemicals;
 - (2) There is a threat posed to human health and the environment from the use of these chemicals;
 - (3) There is a threat to the health and safety of a community if these chemicals are released accidentally;
 - (4) There is a pervasiveness of these chemicals' use in the State; and
 - (5) There is the existence of reasonably available safer alternatives to these chemicals.

STATUTORY AUTHORITY: 38 M.R.S. §2323 & 2329

EFFECTIVE DATE: